

AMENDED IN SENATE AUGUST 31, 2009

AMENDED IN SENATE JULY 14, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 852

Introduced by Assembly Member Fong

February 26, 2009

An act to amend Section 441 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 852, as amended, Fong. Property taxation: statement.

Existing law requires taxpayers that meet certain criteria to file a signed property statement with the county assessor. Existing law authorizes the county assessor to refuse to accept any property statement that he or she determines to be in error.

This bill would authorize the county assessor to refuse to accept any property statement that is not in the requested format ~~and to require the electronic filing of a property statement, as provided,~~ *and would require the assessor, if he or she refuses to accept a property statement that is not in the requested format, as provided, to notify the taxpayer that he or she may file an amended property statement that is in the requested format without incurring a penalty, as provided.* This bill would also authorize the assessor to require the electronic filing of a property

statement, as provided, and would require the county assessor, if he or she requires a property statement to be filed electronically, to notify the taxpayer, in writing, of this requirement. This bill would authorize a county assessor to apply a penalty on a taxpayer, as provided, if a taxpayer fails to file a property statement electronically. This bill would require the State Board of Equalization to adopt equipment category codes, as specified, and would require taxpayers filing a property statement electronically to use the equipment category codes, as specified.

This bill would incorporate additional changes in Section 441 of the Revenue and Taxation Code proposed by AB 311, to be operative only if AB 311 and this bill are both enacted and become effective on or before January 1, 2010, both bills amend Section 441, and this bill is enacted after AB 311.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 441 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 441. (a) Each person owning taxable personal property, other
- 4 than a manufactured home subject to Part 13 (commencing with
- 5 Section 5800), having an aggregate cost of one hundred thousand
- 6 dollars (\$100,000) or more for any assessment year shall file a
- 7 signed property statement with the assessor. Every person owning
- 8 personal property that does not require the filing of a property
- 9 statement or real property shall, upon request of the assessor, file
- 10 a signed property statement. Failure of the assessor to request or
- 11 secure the property statement does not render any assessment
- 12 invalid.
- 13 (b) The property statement shall be declared to be true under
- 14 the penalty of perjury and filed annually with the assessor between
- 15 the lien date and 5 p.m. on April 1. The penalty provided by Section
- 16 463 applies for property statements not filed by May 7. If May 7
- 17 falls on a Saturday, Sunday, or legal holiday, a property statement
- 18 that is mailed and postmarked on the next business day shall be
- 19 deemed to have been filed between the lien date and 5 p.m. on
- 20 May 7. If, on the dates specified in this subdivision, the county's

1 offices are closed for the entire day, that day is considered a legal
2 holiday for purposes of this section.

3 (c) The property statement may be filed with the assessor
4 through the United States mail, properly addressed with postage
5 prepaid. For purposes of determining the date upon which the
6 property statement is deemed filed with the assessor, the date of
7 postmark as affixed by the United States Postal Service, or the
8 date certified by a bona fide private courier service on the envelope
9 containing the application, shall control. This subdivision shall be
10 applicable to every taxing agency, including, but not limited to, a
11 chartered city and county, or chartered city.

12 (d) (1) At any time, as required by the assessor for assessment
13 purposes, every person shall make available for examination
14 information or records regarding his or her property or any other
15 personal property located on premises he or she owns or controls.
16 In this connection details of property acquisition transactions,
17 construction and development costs, rental income, and other data
18 relevant to the determination of an estimate of value are to be
19 considered as information essential to the proper discharge of the
20 assessor's duties.

21 (2) (A) This subdivision shall also apply to an owner-builder
22 or an owner-developer of new construction that is sold to a third
23 party, is constructed on behalf of a third party, or is constructed
24 for the purpose of selling that property to a third party.

25 (B) The owner-builder or owner-developer of new construction
26 described in subparagraph (A), shall, within 45 days of receipt of
27 a written request by the assessor for information or records, provide
28 the assessor with all information and records regarding that
29 property. The information and records provided to the assessor
30 shall include the total consideration provided either by the
31 purchaser or on behalf of the purchaser that was paid or provided
32 either, as part of or outside of the purchase agreement, including,
33 but not limited to, consideration paid or provided for the purchase
34 or acquisition of upgrades, additions, or for any other additional
35 or supplemental work performed or arranged for by the
36 owner-builder or owner-developer on behalf of the purchaser.

37 (e) In the case of a corporate owner of property, the property
38 statement shall be signed either by an officer of the corporation or
39 an employee or agent who has been designated in writing by the

1 board of directors to sign the statements on behalf of the
2 corporation.

3 (f) In the case of property owned by a bank or other financial
4 institution and leased to an entity other than a bank or other
5 financial institution, the property statement shall be submitted by
6 the owner bank or other financial institution.

7 (g) (1) The assessor may refuse to accept any property statement
8 he or she determines to be in error or not in the requested format.

9 (2) *If the assessor refuses to accept a property statement that*
10 *is not in the requested format, but the property statement is filed*
11 *in accordance with subdivision (b), the assessor shall notify the*
12 *taxpayer, no later than 12 days from the date the assessor refuses*
13 *to accept the property statement, that the taxpayer may file an*
14 *amended property statement that is in the requested format without*
15 *incurring a penalty. If the taxpayer files an amended property*
16 *statement pursuant to this paragraph, the amended property*
17 *statement shall be filed within 12 days from the date of the*
18 *assessor's notice, or by May 7, whichever is later.*

19 (h) If a taxpayer fails to provide information to the assessor
20 pursuant to subdivision (d) and introduces any requested materials
21 or information at any assessment appeals board hearing, the
22 assessor may request and shall be granted a continuance for a
23 reasonable period of time. The continuance shall extend the
24 two-year period specified in subdivision (c) of Section 1604 for a
25 period of time equal to the period of the continuance.

26 (i) Notwithstanding any other provision of law, every person
27 required to file a property statement pursuant to this section shall
28 be permitted to amend that property statement until May 31 of the
29 year in which the property statement is due, for errors and
30 omissions not the result of willful intent to erroneously report. The
31 penalty authorized by Section 463 does not apply to an amended
32 statement received prior to May 31, provided the original statement
33 is not subject to penalty pursuant to subdivision (b). The amended
34 property statement shall otherwise conform to the requirements
35 of a property statement as provided in this article.

36 (j) This subdivision shall apply to the oil, gas, and mineral
37 extraction industry only. Any information that is necessary to file
38 a true, correct, and complete statement shall be made available by
39 the assessor, upon request, to the taxpayer by mail or at the office
40 of the assessor by February 28. For each business day beyond

1 February 28 that the information is unavailable, the filing deadline
2 in subdivision (b) shall be extended in that county by one business
3 day, for those statements affected by the delay. In no case shall
4 the filing deadline be extended beyond June 1 or the first business
5 day thereafter.

6 (k) The assessor may accept the filing of a property statement
7 by the use of electronic media. In lieu of the signature required by
8 subdivision (a) and the declaration under penalty of perjury
9 required by subdivision (b), property statements filed using
10 electronic media shall be authenticated pursuant to methods
11 specified by the assessor and approved by the board. For purposes
12 of this subdivision, electronic media includes, but is not limited
13 to, computer modem, magnetic media, optical disk, and facsimile
14 machine.

15 (l) (1) The assessor may require the property statement to be
16 filed electronically.

17 (2) A property statement that is filed electronically pursuant to
18 this subdivision shall satisfy both of the following:

19 (A) Be filed using electronic Internet media in a form and
20 pursuant to methods as may be specified by the assessor and
21 approved by the board.

22 (B) In lieu of the signature required by subdivision (a) and the
23 declaration under penalty of perjury required by subdivision (b),
24 be authenticated pursuant to methods specified by the assessor and
25 approved by the board.

26 (3) If an assessor requires a property statement to be filed
27 electronically pursuant to this subdivision, the assessor shall notify
28 the taxpayer, in writing, of this requirement.

29 (4) (A) For the first year in which an assessor requires a
30 taxpayer to file a property statement electronically pursuant to this
31 subdivision, the taxpayer may, for that one year, comply with all
32 existing filing requirements and deadlines with paper filings. After
33 that first year, and in all subsequent years, the taxpayer shall file
34 the property statement electronically pursuant to this subdivision.

35 (B) The one-year period to comply with all existing filing
36 requirements and deadlines with paper filings authorized pursuant
37 to subparagraph (A) shall begin on the date the notification required
38 by paragraph (3) is sent to the taxpayer.

39 (5) This subdivision shall only apply to taxpayers owning
40 taxable personal property, other than a manufactured home, having

1 an aggregate assessed value of one hundred thousand dollars
2 (\$100,000) or more in the immediate prior year.

3 (6) The assessor ~~may~~ *shall*, in any given year, waive the
4 electronic filing requirements of this subdivision for a taxpayer
5 who demonstrates that this requirement would place an
6 unreasonable burden on his or her business.

7 (7) An assessor who requires a taxpayer to file a property
8 statement electronically pursuant to this subdivision may apply a
9 penalty on a taxpayer as provided by Section 463 if the taxpayer
10 fails to file the property statement electronically.

11 (m) (1) After receiving the notice required by Section 1162,
12 the manager in control of a fleet of fractionally owned aircraft
13 shall file with the lead county assessor's office one signed property
14 statement for all of its aircraft that have acquired situs in the state,
15 as described in Section 1161.

16 (2) Flight data required to compute fractionally owned aircraft
17 allocation under Section 1161 shall be segregated by airport.

18 (n) (1) After receiving the notice required by paragraph (5) of
19 subdivision (b) of Section 1153.5, a commercial air carrier whose
20 certificated aircraft is subject to Article 6 (commencing with
21 Section 1150) of Chapter 5 shall file with the lead county assessor's
22 office designated under Section 1153.5 one signed property
23 statement for its personal property at all airport locations and
24 fixtures at all airport locations.

25 (2) Each commercial air carrier may file one schedule for all of
26 its certificated aircraft that have acquired situs in this state under
27 Section 1151.

28 (3) Flight data required to compute certificated aircraft allocation
29 under Section 1152 and subdivision (g) of Section 202 of Title 18
30 of the California Code of Regulations shall be segregated by airport
31 location.

32 (4) Beginning with the 2006 assessment year, a commercial air
33 carrier may file a statement described in this subdivision
34 electronically by means of the California Assessor's Standard Data
35 Record (SDR) network. If the SDR is not equipped to accept
36 electronic filings for the 2006 assessment year, an air carrier may
37 file a printed version of its property statement for that year with
38 its lead county assessor's office.

39 (5) This subdivision shall remain in effect only until December
40 31, 2010, and as of that date is repealed.

1 (o) (1) On or before January 1, 2011, the State Board of
2 Equalization shall, in consultation with the California Assessors'
3 Association and representatives of taxpayers, adopt equipment
4 category codes for property statements filed electronically pursuant
5 to subdivision (l) that request these codes.

6 (2) (A) On and after January 1, 2012, taxpayers filing property
7 statements electronically pursuant to subdivision (l) shall use the
8 equipment category codes specified in paragraph (1).

9 (B) An assessor shall not penalize a taxpayer for failing to use
10 the equipment category codes specified in paragraph (1) if the
11 State Board of Equalization fails to adopt the equipment category
12 codes on or before the date specified in paragraph (1).

13 *SEC. 1.5. Section 441 of the Revenue and Taxation Code is*
14 *amended to read:*

15 441. (a) Each person owning taxable personal property, other
16 than a manufactured home subject to Part 13 (commencing with
17 Section 5800), having an aggregate cost of one hundred thousand
18 dollars (\$100,000) or more for any assessment year shall file a
19 signed property statement with the assessor. Every person owning
20 personal property that does not require the filing of a property
21 statement or real property shall, upon request of the assessor, file
22 a signed property statement. Failure of the assessor to request or
23 secure the property statement does not render any assessment
24 invalid.

25 (b) The property statement shall be declared to be true under
26 the penalty of perjury and filed annually with the assessor between
27 the lien date and 5 p.m. on April 1. The penalty provided by Section
28 463 applies for property statements not filed by May 7. If May 7
29 falls on a Saturday, Sunday, or legal holiday, a property statement
30 that is mailed and postmarked on the next business day shall be
31 deemed to have been filed between the lien date and 5 p.m. on
32 May 7. If, on the dates specified in this subdivision, the county's
33 offices are closed for the entire day, that day is considered a legal
34 holiday for purposes of this section.

35 (c) The property statement may be filed with the assessor
36 through the United States mail, properly addressed with postage
37 prepaid. For purposes of determining the date upon which the
38 property statement is deemed filed with the assessor, the date of
39 postmark as affixed by the United States Postal Service, or the
40 date certified by a bona fide private courier service on the envelope

1 containing the application, shall control. This subdivision shall be
2 applicable to every taxing agency, including, but not limited to, a
3 chartered city and county, or chartered city.

4 (d) (1) At any time, as required by the assessor for assessment
5 purposes, every person shall make available for examination
6 information or records regarding his or her property or any other
7 personal property located on premises he or she owns or controls.
8 In this connection details of property acquisition transactions,
9 construction and development costs, rental income, and other data
10 relevant to the determination of an estimate of value are to be
11 considered as information essential to the proper discharge of the
12 assessor's duties.

13 (2) (A) This subdivision shall also apply to an owner-builder
14 or an owner-developer of new construction that is sold to a third
15 party, is constructed on behalf of a third party, or is constructed
16 for the purpose of selling that property to a third party.

17 (B) The owner-builder or owner-developer of new construction
18 described in subparagraph (A), shall, within 45 days of receipt of
19 a written request by the assessor for information or records, provide
20 the assessor with all information and records regarding that
21 property. The information and records provided to the assessor
22 shall include the total consideration provided either by the
23 purchaser or on behalf of the purchaser that was paid or provided
24 either, as part of or outside of the purchase agreement, including,
25 but not limited to, consideration paid or provided for the purchase
26 or acquisition of upgrades, additions, or for any other additional
27 or supplemental work performed or arranged for by the
28 owner-builder or owner-developer on behalf of the purchaser.

29 (e) In the case of a corporate owner of property, the property
30 statement shall be signed either by an officer of the corporation or
31 an employee or agent who has been designated in writing by the
32 board of directors to sign the statements on behalf of the
33 corporation.

34 (f) In the case of property owned by a bank or other financial
35 institution and leased to an entity other than a bank or other
36 financial institution, the property statement shall be submitted by
37 the owner bank or other financial institution.

38 (g) (1) The assessor may refuse to accept any property statement
39 he or she determines to be in error *or not in the requested format*.

(2) *If the assessor refuses to accept a property statement that is not in the requested format, but the property statement is filed in accordance with subdivision (b), the assessor shall notify the taxpayer, no later than 12 days from the date the assessor refuses to accept the property statement, that the taxpayer may file an amended property statement that is in the requested format without incurring a penalty. If the taxpayer files an amended property statement pursuant to this paragraph, the amended property statement shall be filed within 12 days from the date of the assessor's notice, or by May 7, whichever is later.*

(h) If a taxpayer fails to provide information to the assessor pursuant to subdivision (d) and introduces any requested materials or information at any assessment appeals board hearing, the assessor may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of the continuance.

(i) Notwithstanding any other provision of law, every person required to file a property statement pursuant to this section shall be permitted to amend that property statement until May 31 of the year in which the property statement is due, for errors and omissions not the result of willful intent to erroneously report. The penalty authorized by Section 463 does not apply to an amended statement received prior to May 31, provided the original statement is not subject to penalty pursuant to subdivision (b). The amended property statement shall otherwise conform to the requirements of a property statement as provided in this article.

(j) This subdivision shall apply to the oil, gas, and mineral extraction industry only. Any information that is necessary to file a true, correct, and complete statement shall be made available by the assessor, upon request, to the taxpayer by mail or at the office of the assessor by February 28. For each business day beyond February 28 that the information is unavailable, the filing deadline in subdivision (b) shall be extended in that county by one business day, for those statements affected by the delay. In no case shall the filing deadline be extended beyond June 1 or the first business day thereafter.

(k) The assessor may accept the filing of a property statement by the use of electronic media. In lieu of the signature required by subdivision (a) and the declaration under penalty of perjury

1 required by subdivision (b), property statements filed using
2 electronic media shall be authenticated pursuant to methods
3 specified by the assessor and approved by the board. ~~Electronic~~
4 *For purposes of this subdivision, electronic media includes, but*
5 *is not limited to, computer modem, magnetic media, optical disk,*
6 *and facsimile machine.*

7 *(l) (1) The assessor may require the property statement to be*
8 *filed electronically.*

9 *(2) A property statement that is filed electronically pursuant to*
10 *this subdivision shall satisfy both of the following:*

11 *(A) Be filed using electronic Internet media in a form and*
12 *pursuant to methods as may be specified by the assessor and*
13 *approved by the board.*

14 *(B) In lieu of the signature required by subdivision (a) and the*
15 *declaration under penalty of perjury required by subdivision (b),*
16 *be authenticated pursuant to methods specified by the assessor*
17 *and approved by the board.*

18 *(3) If an assessor requires a property statement to be filed*
19 *electronically pursuant to this subdivision, the assessor shall notify*
20 *the taxpayer, in writing, of this requirement.*

21 *(4) (A) For the first year in which an assessor requires a*
22 *taxpayer to file a property statement electronically pursuant to*
23 *this subdivision, the taxpayer may, for that one year, comply with*
24 *all existing filing requirements and deadlines with paper filings.*
25 *After that first year, and in all subsequent years, the taxpayer shall*
26 *file the property statement electronically pursuant to this*
27 *subdivision.*

28 *(B) The one-year period to comply with all existing filing*
29 *requirements and deadlines with paper filings authorized pursuant*
30 *to subparagraph (A) shall begin on the date the notification*
31 *required by paragraph (3) is sent to the taxpayer.*

32 *(5) This subdivision shall only apply to taxpayers owning taxable*
33 *personal property, other than a manufactured home, having an*
34 *aggregate assessed value of one hundred thousand dollars*
35 *(\$100,000) or more in the immediate prior year.*

36 *(6) The assessor shall, in any given year, waive the electronic*
37 *filing requirements of this subdivision for a taxpayer who*
38 *demonstrates that this requirement would place an unreasonable*
39 *burden on his or her business.*

1 (7) *An assessor who requires a taxpayer to file a property*
2 *statement electronically pursuant to this subdivision may apply a*
3 *penalty on a taxpayer as provided by Section 463 if the taxpayer*
4 *fails to file the property statement electronically.*

5 ~~(t)~~

6 (m) (1) After receiving the notice required by Section 1162,
7 the manager in control of a fleet of fractionally owned aircraft
8 shall file with the lead county assessor's office one signed property
9 statement for all of its aircraft that have acquired situs in the state,
10 as described in Section 1161.

11 (2) Flight data required to compute fractionally owned aircraft
12 allocation under Section 1161 shall be segregated by airport.

13 ~~(m)~~

14 (n) (1) After receiving the notice required by paragraph (5) of
15 subdivision (b) of Section 1153.5, a commercial air carrier whose
16 certificated aircraft is subject to Article 6 (commencing with
17 Section 1150) of Chapter 5 shall file with the lead county assessor's
18 office designated under Section 1153.5 one signed property
19 statement for its personal property at all airport locations and
20 fixtures at all airport locations.

21 (2) Each commercial air carrier may file one schedule for all of
22 its certificated aircraft that have acquired situs in this state under
23 Section 1151.

24 (3) Flight data required to compute certificated aircraft allocation
25 under Section 1152 and subdivision (g) of Section 202 of Title 18
26 of the California Code of Regulations shall be segregated by airport
27 location.

28 (4) Beginning with the 2006 assessment year, a commercial air
29 carrier may file a statement described in this subdivision
30 electronically by means of the California Assessor's Standard Data
31 Record (SDR) network. If the SDR is not equipped to accept
32 electronic filings for the 2006 assessment year, an air carrier may
33 file a printed version of its property statement for that year with
34 its lead county assessor's office.

35 (5) This subdivision shall remain in effect only until December
36 31, ~~2010~~ 2014, and as of that date is repealed.

37 (o) (1) *On or before January 1, 2011, the State Board of*
38 *Equalization shall, in consultation with the California Assessors'*
39 *Association and representatives of taxpayers, adopt equipment*

1 *category codes for property statements filed electronically pursuant*
2 *to subdivision (l) that request these codes.*

3 *(2) (A) On and after January 1, 2012, taxpayers filing property*
4 *statements electronically pursuant to subdivision (l) shall use the*
5 *equipment category codes specified in paragraph (1).*

6 *(B) An assessor shall not penalize a taxpayer for failing to use*
7 *the equipment category codes specified in paragraph (1) if the*
8 *State Board of Equalization fails to adopt the equipment category*
9 *codes on or before the date specified in paragraph (1).*

10 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
11 *Section 441 of the Revenue and Taxation Code proposed by both*
12 *this bill and AB 311. It shall only become operative if (1) both bills*
13 *are enacted and become effective on or before January 1, 2010,*
14 *(2) each bill amends Section 441 of the Revenue and Taxation*
15 *Code, and (3) this bill is enacted after AB 311, in which case*
16 *Section 1 of this bill shall not become operative.*